

AGENDA MEMO

CITY COUNCIL MEETING DATE: MAY 20, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: SUP-33730 - APPLICANT/OWNER: L'CHAIM 24 FREMONT PROPERTY, LLC

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend APPROVAL, subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for a Beer/Wine/Cooler Off-Sale use.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit to allow a Beer/Wine/Cooler Off-Sale Establishment within an existing retail store at 24 Fremont Street. The existing retail store is 2,875 square feet in size. The Beer/Wine/Cooler Off-Sale use will be ancillary to the existing retail store. No Waivers are needed as a part of this request.

The sale of individual containers of any size of beer or wine coolers is appropriate at this location. The sale of individual containers is consistent with previous approvals in the area and is a common business practice for merchants along this portion of Fremont Street. This request meets all minimum Special Use Requirements and can be conducted in a compatible and harmonious manner within the existing retail store and with similar uses along Fremont Street; therefore staff is recommending approval of this application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/16/64	The City Council approved a Rezoning (Z-0100-64) from R-1 (Single Family Residential), R-4 (High Density Residential), C-1 (Limited Commercial), C-2 (General Commercial) and C-V (Civic) to C-2 (General Commercial) for approximately 230 acres generally located on property bound by Main Street to the west, Bonanza Road on the north, Las Vegas Boulevard on the east, and Charleston Boulevard on the south. The Planning Commission and staff recommended approval of the request.
05/07/03	The City Council approved a Variance (VAR-1892) to allow the expansion of a non-conforming use (Sexually Oriented Business) on property located at 24 Fremont Street
07/27/06	The Planning Commission approved a request for a Site Development Plan Review (SDR-12354) for a proposed 1,668 square-foot expansion of an existing retail establishment on 0.08 acres at 24 Fremont Street. Staff recommended approval of the request.
09/11/07	A Citation (#57707) was issued for storage in the alley at 24 Fremont Street. The issue was resolved on 09/27/07.
04/23/09	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #10/bts).
<i>Related Building Permits/Business Licenses</i>	
11/09/95	A Building Permit (#95881941) was issued for a sign at 24 Fremont Street. The permit expired on 05/11/95.
09/03/03	A Business License (#C05-02281) was issued for a tobacco dealer at 24 Fremont Street. The license remains active at this location.

09/03/03	A Business License (#C15-00315) was issued for a convenience store at 24 Fremont Street. The license remains active at this location.
09/03/03	A Business License (#I12-00009) was issued for an interactive entertainment center at 24 Fremont Street. The license remains active at this location.
12/23/03	A Business License (#P35-00720) was issued for an outdoor pay phone at 24 Fremont Street. The license remains active at this location.
08/17/04	A Building Permit (#4019070) was issued for a sign at 24 Fremont Street. The permit expired on 02/19/05.
09/10/04	A Building Permit (#4019714) was issued for a tenant improvement at 24 Fremont Street. The permit was finalized on 04/06/05.
05/05/05	A Building Permit (#5002916) was issued for a sign at 24 Fremont Street. The permit expired on 11/05/05.
05/18/07	A Building Permit (#89859) was issued for a chain-link fence at 24 Fremont Street. The permit was finalized on 04/29/08.
<i>Pre-Application Meeting</i>	
02/04/09	A pre-application meeting was held and the submittal requirements of a Special Use Permit application were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

<i>Field Check</i>	
03/19/09	A field check was completed on the indicated date. An existing retail establishment at 24 Fremont Street was noted.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.08 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	General Retail	C (Commercial)	C-2 (General Commercial)
North	Casino	C (Commercial)	C-2 (General Commercial)
South	General Retail	C (Commercial)	C-2 (General Commercial)
East	Casino	C (Commercial)	C-2 (General Commercial)
West	Sexually Oriented Business	C (Commercial)	C-2 (General Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan	X		
Downtown Centennial Plan			Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
Downtown Overlay District – (Central Casino Core)	X		Y
A-O (Airport Overlay) District - (200-foot)	X		Y
Downtown Casino Overlay District	X		Y
Live/Work Overlay District	X		N/A
Trails – Tortoise Trail	X		Y
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

Redevelopment Plan Area – The subject site is located within the boundaries of the Las Vegas Redevelopment Plan Area. The proposed use is in conformance with the Redevelopment Plan goals and policies.

Downtown Centennial Plan – The subject site is located within the boundaries of a Downtown Overlay District. Specifically, the site is located within the Central Casino Core District of the Downtown Centennial Plan. The proposed use meets the intent of the Central Casino Core District.

A-O (Airport Overlay) District – The subject site is located within the 200-foot contour of the North Las Vegas Airport Overlay map. The addition of a use in an existing building will have no impact on the Airport Overlay.

Downtown Casino Overlay District - The subject site is located within the boundaries of the Downtown Casino Overlay District. The proposed use meets the intent of the Downtown Casino Overlay District.

Live/Work Overlay District – The subject site is within the Live/Work Overlay District. The applicant is not proposing a Live/Work development.

Trails (Tortoise Trail) – The subject site is site is adjacent to the Tortoise Trail. The Tortoise Trail was adopted as a part of General Plan Amendment (GPA-32130) in February 2009.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement - Downtown							
Use	Gross Floor Area or Number of Units	Base Parking Requirement			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store, Other Than Listed (Less than 3,500 Square Feet)	2,875 SF	1:175 GFA	17	1			
TOTAL			17	1	0		N*

* The applicant is deficient by a total of 18 parking spaces or approximately 100% pursuant to Title 19.10 requirements. The subject site is located within the Las Vegas Downtown Centennial Plan area, which is not subject to the automatic application of parking requirements. However, the above table should be used to illustrate the requirements of an analogous project in another location in the City. The analysis should take a number of factors into consideration when discussing parking availability, including pedestrian access, nearby parking structures, on-street parking, etc. There are no parking spaces on the subject site. This is a common occurrence for shops along this portion of Fremont Street within the Fremont Street Experience area. Adequate parking is located in several parking structures within walking distance to Fremont Street.

ANALYSIS

This request is for a Special Use Permit for a proposed Beer/Wine/Cooler Off-Sale Establishment within an existing retail store at 24 Fremont Street. The applicant indicates that they would like to sell beer and wine as an additional item in their store. The existing retail store is 2,875 square feet. The sale of individual containers of any size of beer or wine coolers is appropriate at this location. The sale of individual containers is consistent with previous approvals in the area and is a common business practice for merchants along this portion of Fremont Street.

The proposed Beer/Wine/Cooler Off-Sale Establishment requires the approval of a Special Use Permit within a C-2 (General Commercial) zoning designation. No Waivers are needed as a part of this request. The proposed Beer/Wine/Cooler Off-Sale Establishment meets all applicable Title 19, General Plan and all other applicable plans. Therefore, staff is recommending approval of the subject Special Use Permit.

- **Zoning**

This project is located within a C-2 (General Commercial) zoning district. The C-2 (General Commercial) district is designed to provide the broadest scope of compatible services for both the general and traveling public. This category allows retail, service, automotive, wholesale, office and other general business uses of an intense character, as well as mixed-use developments. This district should be located away from low and medium density residential developments and may be used as a buffer between retail and industrial uses. The C-2 (General Commercial) district is also appropriate along commercial corridors. The C-2 (General Commercial) district is consistent with the General Commercial category of the General Plan.

- **Use**

A Beer/Wine/Cooler Off-Sale Establishment is defined by Title 19 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine or coolers to consumers only and not for resale, in original sealed or corked containers, for the consumption off the premises where the same are sold, and is operated in connection with a grocery store, convenience store, or specialty merchandise store. Beer/Wine/Cooler Off-Sale cannot be located within 400 feet of any church, synagogue, school, childcare facility licensed for more than 12 children or City Park. The subject location does not have any of the before mentioned protected uses within the required 400-foot distance separation.

- **Minimum Special Use Permit Requirements**

1. Except as otherwise provided, no Beer/Wine/Cooler Off-Sale Establishment (hereinafter “establishment”) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
2. Except as otherwise provided in Requirement 3 below, the distance referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:

- a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
 - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for an establishment, which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reason in support of the decision.
5. The minimum distance requirement in Requirement 1 do not apply to:
 - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than 50,000 square feet of retail floor space.
6. All businesses, which sell alcoholic beverages, shall conform to the provisions of LVMC Chapter 6.50.
7. The minimum distance requirements set forth in Requirement 1, which are otherwise non-waivable under the provisions of Section 19.040.050(A)(4), may be waived:

- a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
- b. In accordance with the applicable provisions of the “Town Center Development Standards Manual” for any establishment which is proposed to be located within the T-C (Town Center) zoning district and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
- c. In connection with a proposed establishment having between 20,000 square feet and 50,000 square feet of retail floor space, if no more than 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages; or
- d. In connection with a retail establishment having less than 20,000 square feet of retail floor space, if the area to be used for the sale, display, or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet.

The proposed use is in conformance with the minimum Special Use Permit Requirements for a Beer/Wine/Cooler Off-Sale Establishment.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed Beer/Wine/Cooler Off-Sale Establishment is within an existing retail store, which is adjacent to similar uses along Fremont Street. The addition of a Beer/Wine/Cooler Off-Sale Establishment use within this area is compatible with the existing and future land uses as specified by the General Plan.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The subject site is currently operated as a retail store. Similar alcohol related uses are common in this area of the City. The addition of this use will not intensify the physical requirements; therefore the subject site is physically suitable to accommodate the proposed use.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The proposed Beer/Wine/Cooler Off-Sale Establishment use is located on Fremont Street, which is defined as an 80-foot Secondary Collector Arterial, as defined by the Master Plan of Streets and Highways. The location of the subject site is not accessed by vehicular traffic as it is located under the Fremont Street Experience canopy. The site will be accessed primarily from pedestrian traffic.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The subject site is located within the Southeast Sector Plan of the General Plan. The site is zoned C-2 (General Commercial) and has a General Plan designation of C (Commercial). Beer/Wine/Cooler Off-Sale is a permitted use in the C-2 (General Commercial) district with the approval of a Special Use Permit. It will not compromise the public health, safety, and welfare or overall objectives of the General Plan.

5. **The use meets all of the applicable conditions per Title 19.04.**

The proposed Beer/Wine/Cooler Off-Sale use meets all of the applicable conditions per Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 120 by City Clerk

APPROVALS 0

PROTESTS 0